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**AUG 04 2008**

In re Application of  
Frederic ROELEN  
Application No. 10/741,821  
Filed: December 19, 2003  
Attorney Docket No. 02-MGE-349

ON PETITION

This is a decision on:

(1) the petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application; and

(2) the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

These two petitions were filed concurrently on January 22, 2008,

The petition under 37 C.F.R. 1.181 is **DISMISSED**, and the petition to revive under 37 C.F.R. 1.137(b) is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 21, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 21, 2007. Accordingly, the date of abandonment of this application is December 22, 2007.

Withdraw the Holding of Abandonment

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Petitioner suggest that the Notice dated September 21, 2007, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. In this regard, there is no indication that a search was conducted of practitioner's full records on the present application, including any file jacket or the equivalent. A statement is required that such an extensive search was performed. See MPEP § 711.03(c), I, A.

Furthermore, Petitioner does provide a copy of the docket report for the current case. However, the showing required must include a statement from the practitioner describing the docketing system and indicating that the docketing system is sufficiently reliable. See MPEP § 711.03(c), I, A. The petition does describe general office practices, but does not describe the docketing system or establish its reliability.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance and Issue Fees Due, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

#### Revive, Unintentional Delay

Since the revival of the application under 137(b) was considered, a petition fee is required for this petition. In particular, a fee of \$1540.00 is required for the petition under 37 CFR 1.137(b). Petitioner has given authorization to charge the issue and publication fees to Deposit Account 50-1556 as well as any other required fee. Accordingly, the petition fee under 37 CFR 1.137(b) and the publication and issue fees will be charged.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1440 and the publication fee of \$300, (2) the petition fee of \$1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to the Office of Data Management for further processing.

*Chitra Borthakur*

for Thurman Page  
Petitions Examiner  
Office of Petitions